PATENT

Atty Docket No.: 200208212-1
App. Ser. No.: 10/608,151

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Claims 1-3, 5, 7-35, 37 and 39-46 are pending in the present application of which claims 1, 15, 29, 32, 35 and 40 are independent. Claims 3, 15-34 and 40-46 are withdrawn. Claims 4, 6, 36 and 38 are canceled. Independent claims 1 and 35 and dependent claims 2, 5, 7-14, 37 and 39 have been examined and are rejected.

Claims 1, 2, 5-6, 8-11, 14, 35 and 37-39 were rejected under 35 U.S.C. §102(a) as being anticipated by Chaiken et al. (2002/0183869), referred to as Chaiken.

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Chaiken in view of Davidson (6,946,363).

Claims 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Chaiken in view of Bradshaw (4,386,733).

These rejections are traversed for the reasons set forth below.

Examiner Interview Conducted

The Applicants wish to thank Examiner Chen for granting the interview conducted on February 27, 2006 with the Applicants' representative, Ashok Mannava. The amendments to claim 1 were discussed. Examiner Chen indicated that feature regarding the excess cooling fluid may place the application in condition for allowance. This feature has been added to independent claims 1 and 35.

Also discussed was that the threshold is based on the maximum cooling capacity for the cooling system, and that the aggregate temperature of the computer systems is compared to the threshold. Chaiken, on the other hand, discloses comparing a temperature to a

temperature operating range, which is not disclosed as associated with a maximum cooling capacity of the cooling system. Instead, the temperature operating range appears to be a predetermined, recommended temperature operating range for a processor.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

> Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 2, 4-6, 8-11, 14 and 35-39 were rejected under 35 U.S.C. §102(a) as being anticipated by Chaiken.

Independent claim 1 has been amended to recite:

> at least one circuit operable to determine an aggregate amount of heat dissipated by the computer systems from the temperature sensors and compare the aggregate amount of heat being dissipated by the computer systems to a

threshold, wherein the threshold is based on a maximum cooling capacity of the cooling system.

According to embodiments, a threshold is based on the maximum cooling capacity of the cooling system and not the temperature operating range of computer systems. According to an embodiment, the cooling system may provision different amounts of cooling fluid to different computer systems depending on their heat dissipation. See p 7, lines 1-15. Thus, even if a temperature range is exceeded, there still may be sufficient cooling fluid to cool hotter computer systems by displacing cooling fluid from cooler computer systems. Hence, the threshold is based on the maximum cooling capacity and not the temperatures of the computer systems.

Claim 1 recites a threshold based on the maximum cooling capacity of the cooling system. Chaiken discloses a threshold associated with a temperature operating range for processors in a multiprocessor architecture. See paras 6, 9 and 14. Chaiken fails to teach or suggest a threshold based on the maximum cooling capacity of the cooling system. In Chaiken's system, if a single processor temperature reaches the threshold, the processor may be shut down even if excess cooling fluid is available.

Claim 1 also recites:

the at least one circuit is further operable to compare an amount of cooling fluid being provided to cool the computer systems to an excess cooling threshold to determine if excess cooling fluid is available, and place one or more electrical components of the computer systems in a higher-power state from a lower-power state if excess cooling fluid is available.

Support for these features is provided on page 8, lines 4-14 of the Applicants' specification. None of the cited prior art teaches or suggests these features. As discussed in the interview, these features may place the claim in condition for allowance.

For at least these reasons claim 1 and dependent claims 1, 2, 5 and 7-14 are believed to be allowable. Independent claim 35 has been amended to recite similar features and claims 35, 37 and 39 are also believed to be allowable.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Chaiken in view of Davidson (6,946,363). Claims 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Chaiken in view of Bradshaw (4,386,733). Claims 7 and 12-13 are believed to be allowable at least for the reasons claim 1 is believed to be allowable.

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: March 20, 2007 By

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